

General Information Letter: A return filed before the due date (including automatic extensions) is deemed filed on the due date for purposes of the statute of limitations on issuance of a notice of deficiency.

October 17, 2002

Dear:

This is in response to your letter dated October 15, 2002, in which you request a letter ruling. The nature of your request and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), which may be found on the Department's web site at www.revenue.state.il.us.

In your letter you have stated the following:

You may recall that a couple of days ago I asked you about the Illinois Statute of Limitations and you pointed me toward the regulations which stated that even if a tax return was timely filed on April 15th, the applicable "three year" Statute would not expire until October 15th of the third year following the year in which the tax return was filed.

Subsequent to our conversation I reviewed the Statute itself, Section 905, which states, "In general, unless otherwise provided in this Act: (i) a Notice of Deficiency shall be issued not later than three years after the date the return was filed." Clearly, the Statute only provides for a three year Statute of Limitations. Is there something I am missing, or did the Regulations merely change the law as passed by the legislators.

Response

Section 905(a) of the Illinois Income Tax Act (35 ILCS 5/101 *et seq.*) provides:

Except as otherwise provided in this Act:

(1) A notice of deficiency shall be issued not later than 3 years after the date the return was filed.

Section 905(h) states:

For purposes of this Section a tax return filed before the last day prescribed by law (including any extension thereof) shall be deemed to have been filed on such last day.

86 Ill. Admin. Code Section 100.9320 provides for notices of deficiency. Consistent with these statutes, Section 100.9320(h) states:

For purposes of this section, a return filed before the last day prescribed by law (including any extensions of time for filing) shall be deemed to have been filed on such

last day. The last day prescribed for filing returns shall include any automatic extensions of time for filing.

As stated above, this is a general information letter which does not constitute a statement of policy that applies, interprets or prescribes the tax laws, and it is not binding on the Department. If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b). If you have any further questions, you may contact me at (217) 782-7055.

Sincerely,

Paul S. Caselton
Deputy General Counsel -- Income Tax